

**REMARKS**

Claims 1 to 19 are now pending in the application. Claim 19 is amended. The Applicant submits that no new subject matter is added.

**Claim Objections**

Claim 19 is amended to correct a clerical error and respond to a claim objection.

**Claim rejections – 35 USC §103**

Regarding claim rejections based on 35 U.S.C. §103, the Applicant submits that neither Englman (USA 2003 01 57978) nor Bennett (US 6,056,642) teaches all the limitations of the claims, alone or in combination. Thus, the allowance of the discussed claims is respectfully requested, based on the following arguments:

Regarding claims 1, 18 and 19, the Office Action states that it would have been obvious for a person having ordinary skill in the art (PHOSITA) to combine the teaching of the cited references. The Applicant disagrees. The Applicant believes that the PHOSITA has the knowledge of a technician in the manufacture or design of games, of a game seller that would have to “pitch” the advantages of a particular feature of a game without having to understand how this feature was designed or of a game establishment operator.

Bennett teaches a game wherein upon occurrence of a line of predetermined symbols – a “7” symbol – each occurrence of the “7” symbol is lit in a color determined using a random generator which selects one of a plurality of colored lights or “symbols” (“red” symbol, “white” symbol, and “blue” symbol). This document relates to a gaming machine having mechanical reels and responds to limitations of these mechanical reels: a lesser flexibility in the frequencies of occurrence of a symbol. Nowadays, with video slots or video line games, this problem does not exist anymore: the game designers can put as many or as few of each of the symbols as they want on each video reel and thus can control the frequency of occurrence of any outcome

with as much precision as they want. Before and up to the time of Bennett's invention, in machine having mechanical reels, the frequency of occurrence of a particular outcome was dependent on the number of occurrences of each symbol participating into this event on each reel. For example, in a machine where each reel contained twenty-five (25) symbols and the "7" symbol appeared once on each reel, the player had 0.006% of chances to form a line of three "7" symbols ( $1/25 \times 1/25 \times 1/25$ ), while they had 0.8% of forming such a line if the "7" symbol appeared five times on each reel ( $5/25 \times 5/25 \times 5/25$ ). The prizes the game designers may distribute to the player for forming this line of three "7" symbols was directly dependant on the probabilities of forming the outcome. Accordingly, the prize awarded to form a line of three "7" symbols needed to be at least one hundred and twenty-five (125) times smaller if there was five occurrences of the "7" symbol on each reel than if there were only one to get the same final payout (to determine the payout, the game designers multiply the probability of forming the awarded outcome by the prize awarded for forming the outcome). Accordingly, the invention, as disclosed by Bennett, allowed the game designers to give bigger prizes by adding a second level of random determination upon occurrence of a particular outcome. As described, if each second element (in this case a background or a lighting color) had the same chances of occurring, if  $n$  represents the number of different second elements (here 3 colors) and  $r$  the number of reels, and if the prize is awarded if all second elements correspond to a predetermined second element (all background being red in the disclosure), the chances of forming the outcome ( $c\%$ ) is  $c\% = (1/n)^r$  and thus the prize awarded to form the outcome is up to  $1/c\%$  times higher than what was possible without the invention. In Bennett, the example described, the prize may be up to twenty-seven (27) times higher than the prize to award for a simple line of three "7" symbols [ $1/(1/3)^3$ ].

Modern video slot machine, or video line games, offer more variability in their probabilities because they are not restricted by the diameter of the reels, or the length of a

ribbon held by the reels, and thus by a physical limit in the number of symbols that may be borne by these reels. Nowadays, game designers may program video “reels” capable of holding hundreds, even thousands of symbols. Because of this flexibility, Bennett’s solution would be replaced, in a video line game by simply determine how many “red 7” symbols, “white 7” symbols and “blue 7” symbols would be necessary on the reel to reach the same result. Even the mechanical reels have evolved enough to render Bennett’s invention obsolete: thanks to programmable step-motors and the capacity of the mechanical machines to stop the reels wherever they decide while providing more chances to stop at certain positions than at others, the mechanical reel machines offer a lot more flexibility in the probabilities of forming a winning outcome. In fact, these machines offer almost the same flexibility as today’s video machines. Moreover, since second screens are now being offered in many gaming machines, as illustrated in Englman’s Figure 1, game designers have the opportunity of offering a second level of random determination on these second screens without having to interact with the symbols or create “statuses” for these symbols. This second screen solution has also the advantage of offering more flexibility and of enhancing the interactivity with the players – the second level of random determination may comprise objects to select, a wheel to spin, any other type of bonus games or even supplementary video reels (especially in mechanical reel machines). Accordingly, it is the Applicant’s opinion that the teaching of Bennett would not have been considered by the PHOSITA, at the moment of the Applicant’s invention, as a pertinent teaching since it was a solution to a problem of another era and of another kind of machine. Thus, it is the Applicant’s opinion that it was not obvious for a PHOSITA to combine a teaching designed to solve a problem that did not exist anymore at the time of the invention, with an invention-contemporary reference to solve an invention-contemporary problem.

Moreover, the Applicant disagrees with the Office Action interpretation of the colors in Bennett as being “states” of the “7” symbol. As explained earlier, these colors would have been

interpreted as a second level of random generation triggered by the occurrence of three (3) “7” symbols on a payline. The “7” symbol itself does not evolve: when three of them appear on the reel, they trigger a new random determination of a new outcome. This outcome is independent of the “7” symbol in that the invention would still work if the second outcome was formed by lights outside of the reels. Accordingly, they are not based on the “7” symbol as stated in the Office Action, but only use the “7” symbols as a trigger and as a “backdrop”. The Applicant also disagrees with the Office Action interpretation of the definition of the word “evolve”. The words “develop gradually” does not indicate that a *particular* sequence must be followed, but that a *sequence* should be present nonetheless! In Bennett, there is no teaching of a sequence: the benefit does not increase from one color to the next, it is only described what happens if three “red” symbols appear on the reel - the jackpot is paid - while no more detail is given for the other colors than saying prizes may be awarded. Accordingly, no sequence in the benefits - increase or decrease – in having three “blue” symbols compared to having three “white” symbols, is taught. A PHOSITA would not interpret it as teaching an evolving symbol, but rather a random determination of an outcome comprising three different symbols.

At page 11 of the Office Action, the end of the second paragraph reads: “Further, the only purpose of the meter in the applicant’s invention is to keep track of the current state of the evolving symbols (the meters are ‘displayed as at least three different statuses of an evolving symbol’).” This affirmation is incorrect. The claim, as cited by the Office Action in the citation herein repeated, says “‘meter displayed as at least three different statuses of an evolving symbol’”. Accordingly, the statuses are used to display the meter and not the meter being used to keep track of the current state of the evolving symbols. Nowhere the claims teach or suggest such an interpretation nor does the disclosure of the Applicant’s invention. Accordingly, the Applicant requests that rejections based on such a wrong interpretation of the claims be withdrawn.

According to all these arguments, it is the Applicant's opinion that the combination of the teachings of Englman and Bennett would not have suggested or taught to a person having ordinary skill in the art the solution taught by the invention of the present application. Thus, the Applicant requests that rejections of claims 1 to 19 be withdrawn and that the claims be allowed.

The Applicant submits that all other claims rejected or otherwise allowable herein not discussed, are dependent upon claims judged allowable by the Applicant and thus should also be found allowable.

It is submitted, therefore, that claims 1 to 19 are in condition for allowance.

Reconsideration of the Examiner's rejections is respectfully requested. Allowance of claims 1 to 19 at an early date is solicited.

In the event that there are any questions concerning these remarks or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

Respectfully submitted,

Gérald Duhamel et al.

By:

/C. Marc Benoît/  
C. Marc Benoît  
(Reg. 50,200)  
Agent of Record  
Benoît & Co.  
Tel: (450) 646-9997